

ATKINSON, ANDELSON, LOYA, RUUD & ROMO

A PROFESSIONAL CORPORATION
ATTORNEYS AT LAW
5776 Stoneridge Mall Road, Suite 200
Pleasanton, California 94588
Telephone: (925) 227-9200
Facsimile: (925) 227-9202

ATKINSON, ANDELSON, LOYA, RUUD & ROMO
A Professional Corporation
Robert Fried, State Bar No. 85579
Deanna J. Mouser, State Bar No. 143187
5776 Stoneridge Mall Road, Suite 200
Pleasanton, California 94588
Telephone: (925) 227-9200
Facsimile: (925) 227-9202

Attorneys for Defendant
MISSION ELECTRIC COMPANY

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

JOEL GONZALEZ,

Plaintiff,

v.

MISSION ELECTRIC COMPANY, aka
MISSION ELECTRIC, DOES 1 to 10,

Defendants.

CASE NO. C 07-04719 JL

**JOINT CASE MANAGEMENT
CONFERENCE STATEMENT**

DATE: December 19, 2007
TIME: 10:30 a.m.
CTRM: F, 15th Floor
JUDGE: The Honorable James Larson

Plaintiffs and Defendants in the above-titled action jointly submit this Case Management Statement.

PREFACE

1. Jurisdiction and Service: On June 14, 2007, the original action was commenced in the Superior Court of the State of California in and for the County of Alameda, entitled *Joel Gonzalez v. Mission Electric Company, aka Mission Electric*, Case Number RG07330850. Pursuant to Local Rule 3-5 (a), this action is a civil action of which this Court has original jurisdiction and which may be removed to this court by Defendant pursuant to the provisions of 28 U.S.C. section 1441(b) in that it arises under the following law of the United States: Title VII of the Civil Rights Act of 1964 (42 U.S.C. § 2000e-2). Pursuant to Local Rule 3-2 (c) and (d),

1 this action is appropriate for assignment to the Oakland Division or San Francisco Division
2 because the action arose in Alameda County. (N.D. Local Rules 3-2 (c) and (d) and 3-5 (b).)

3 2. Facts:

4 PLAINTIFF'S RECITATION OF FACTS:

5 Plaintiff is a Mexican American. He is a former employee of Mission Electric Company,
6 (hereinafter referred to as "defendant"). He began working for defendant, as an electrician on or
7 about May 8, 2004. He satisfactorily performed his job duties and the conditions of his
8 employment with reasonable competence, consistent with the practices and policies of defendant
9 until January 9, 2007 when he was unlawfully terminated from his job. On or about
10 October 14, 2005, plaintiff was injured while on the job. Plaintiff filed a workers' compensation
11 claim. He was off work for about 1 ½ months because of his injury. After he returned to work
12 and worked for about eight months, defendant terminated his employment, without reasonable
13 cause, in retaliation for his taking time off from work for his work-related injury and or in
14 retaliation for his filing a workers' compensation claim, and or motivated by plaintiff's race, ethnic
15 background and or national origin. Defendant's human resources department advised plaintiff
16 that he was being laid off because work was too slow at the time. After plaintiff was terminated
17 from his job, he discovered that defendant was advertising to hire electricians on its company vans
18 and on the internet.

19 DEFENDANT'S RECITATION OF FACTS

20 Plaintiff was a trainee (non journeyman) entry level electrician with a performance record
21 indicating deficiencies in a number of areas. He was not a certified electrician and therefore could
22 not, inter alia, work alone under California law. Although Plaintiff was laid off due to declining
23 work, he was eligible for re-hire if work picked up, provided that work at his performance and
24 capability level was available. Priority for hiring in the layoff and subsequent hiring was given
25 premised on performance capabilities including, inter alia, the ability to work alone under
26 California law and certified electrician status. It should be noted that it is the general practice of
27 Mission employees who are laid off to call in periodically to request re-hire if work picked up.
28 Plaintiff did not call in to request re-hire at any time after his layoff. A review of an initial

ATKINSON, ANDELSON, LOYA, RUUD & ROMO
 A PROFESSIONAL CORPORATION
 ATTORNEYS AT LAW
 5776 STONERIDGE MALL ROAD, SUITE 200
 PLEASANTON, CALIFORNIA 94588
 TELEPHONE: (925) 227-9200
 FACSIMILE: (925) 227-9202

1 compilation of statistical information correlating staffing, workers' compensation claims and
 2 ethnicity was supplied by Defendants with their initial disclosures and is consistent with the
 3 representation of Defendants that no unlawful discriminatory actions occurred with respect to
 4 Plaintiff on the basis of any status based characteristic alleged in the complaint as filed.

5 3. Legal Issues: None

6 4. Motions: No motions have been filed in this action. Plaintiff does not anticipate
 7 filing any motions. Defendant anticipates filing adjudicatory motions after initial discovery.

8 5. Amendment of Pleadings: None

9 6. Evidence Preservation: The parties have discussed the applicability of current
 10 federal rules to this action and shall act in accordance therewith. They do not presently believe
 11 any issues exist with respect to electronic discovery.

12 7. Disclosures: The parties have served their Initial Disclosures.

13 8. Discovery: Plaintiff intends to serve defendant with interrogatories; a request for
 14 production of documents; and deposed a defendant's PMK of facts supporting its reasons for
 15 terminating plaintiff's employment. Defendant will seek a deposition of Plaintiff but is inclined to
 16 proceed with an initial PMK by Plaintiff prior thereto.

17 9. Class Actions: This is not a class action.

18 10. Related Cases: There are no related cases or proceedings pending elsewhere.

19 11. Relief: Plaintiff is requesting damages for emotional distress in the sum of
 20 \$1,000,000.00; lost income, in an amount to be determined; punitive damages in the sum of
 21 \$2,000,000.00; attorney fees, in an amount to be determined.

22 12. Settlement and ADR: The parties requested a telephone conference because they
 23 could not agree to participate in ADR. We request a settlement conference before a Magistrate
 24 Judge after completing discovery. We request the settlement conference to be conducted in April
 25 2008.

26 13. Consent to Magistrate Judge for all purposes: The parties consent to the case
 27 being assigned to a Magistrate Judge for all purposes.

28 14. Other References: None at this time.

ATKINSON, ANDELSON, LOYA, RUUD & ROMO
 A PROFESSIONAL CORPORATION
 ATTORNEYS AT LAW
 5776 STONERIDGE MALL ROAD, SUITE 200
 PLEASANTON, CALIFORNIA 94588
 TELEPHONE: (925) 227-9200
 FACSIMILE: (925) 227-9202

15. Narrowing of Issues: This case is essentially factual in nature at the present time.

16. Expedited Schedule: No request is currently pending.

17. Scheduling: Plaintiff requests a trial be set for June 2008. Defendant does not agree for reasons of scheduling and substance. In the first instance, Defense counsel has three matters currently set that month, one of which is in Washington, D.C. Defense counsel also believes that this matter is not presently ripe for trial setting. Defendant notes that the operative merits of this action and its ripeness for trial, motion practice and/or settlement should be ascertainable after the initial PMK is conducted by Plaintiff. Defendant suggests that a further case management conference be set establishing relevant dates after that. However, on the reasonable assumption that such a PMK can occur prior thereto, the parties request a settlement conference be set for April 2008. If the Court is inclined to otherwise set a trial date, Defense counsel suggests a trial be set for the week commencing November 17, 2008.

18. Trial: The parties estimate that a jury trial will last seven (7) to ten (10) days.

19. Disclosure of Non-Party Interested Entities or Persons: Neither Plaintiffs nor defendants are aware of any non-party entities or persons having an interest in the outcome of this action. Plaintiff has not filed a Certification of Interested Entities or Parties pursuant to Civil Local Rule 3-16.

20. Other Matters: There are no other matters presently known to require attention at the Case Management Conference in this matter.

DATED: December 12, 2007

ATKINSON, ANDELSON, LOYA, RUUD & ROMO

/s/ Robert Fried

By: _____

Robert Fried,

Deanna Mouser

Attorneys for Defendants

MISSION ELECTRIC COMPANY

DATED: December 12, 2007

LAW OFFICES OF MICHAEL C. COHEN

/s/ Michael C. Cohen

By: _____

Michael C. Cohen,

Attorneys For Plaintiff JOEL GONZALEZ